

DEQ – Air Quality Division
SUMMARY OF NEGOTIATED RULEMAKING
REGIONAL HAZE
Docket 58-0101-0601
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Martin Bauer, Air Quality Administrator, called the meeting to order at 9:00 a.m. and participants introduced themselves. He pointed out that this rulemaking is a little different from other negotiations DEQ has held in that this rule must be coordinated with

the programs being developed by surrounding states. The rulemaking group must look at impacts from Idaho sources on Class I areas outside of Idaho. It is important Idaho stays in step with other states as they develop their rules. He cautioned the group to focus on establishing reasonable progress goals and not be overwhelmed by the details. He introduced Mike Edwards, DEQ Air Quality SIP Coordinator, who will facilitate the rulemaking meetings.

OVERVIEW OF VISIBILITY AND REGIONAL HAZE RULE

Mr. Edwards began with a PowerPoint presentation (attached). He said DEQ has worked closely with the Western Regional Air Partnership (WRAP). WRAP consists of a wide range of stakeholders including industry, industrial associations, environmental citizen groups, environmental agencies, etc. The foundation of the WRAP is its stakeholder process and consensus. The WRAP has generated many data-related documents that the DEQ will be using to develop the Idaho State Implementation Plan (SIP) and the regional haze rule.

The federal Regional Haze rule was passed in 1977 as Section 169A of the Clean Air Act. That section asked for the prevention of any future, and the remediation of any existing, impairment of visibility in mandatory Class I federal areas. At the time this was passed there were several sections that dealt with Prevention of Significant Deterioration (PSD). In addition Subpart P, Sections 300-307, which deals specifically with visibility, was passed. No action was taken for several years because consensus could not be reached on how this part should be implemented. In 1990 the Grand Canyon Transport Commission was established; and, ultimately recommendations from that group paved the way for development of Sections 308 and 309. Section 309 looks specifically at the Grand Canyon Plateau and its Class I areas and addresses visibility from the different states causing or contributing to the visibility issues within the Colorado Plateau.

The Regional Haze rule applies to 156 Class I areas that were in existence in 1977. These areas are typically greater than 5,000 acres for wilderness areas and 6,000 acres for national parks. Idaho's Class 1 areas are the Sawtooths, Craters of the Moon, Hell's Canyon and the Selway-Bitterroot.

Haze is caused by many sources, many of them natural, including wind-blown dust and smoke. This rulemaking will address only those causes that are created by man, specifically those sources that cause visibility problems from NO_x, SO₂, carbons, soil and carbons. Impacts from outside Idaho such as dust from Asia or emissions from Mexico and Canada are also factors in Idaho air quality. Idaho needs to be most concerned about emissions it is causing and develop control measures for those issues. DEQ will use WRAP-generated emission inventories, monitoring and modeling as it proceeds with development of its program.

Understanding the Class 1 visibility problems requires looking at the monitoring data. In 1985 a monitoring network called the Interagency Monitoring of Protected Visual Environments (IMPROVE) was established. Monitoring sites are located in

Yellowstone, Craters of the Moon, Sawtooths, Selway-Bitterroot and Hell's Canyon. The creators of the federal Regional Haze rule envisioned emissions would decline and visibility would improve. However, that does not hold true of some of the rules that followed, such as PSD that allows some degradation and growth while taking emission inventories into consideration.

The entire crux of the Regional Haze rule is deciding how to make reasonable progress. For each mandatory Class 1 federal area located within the state, the state must establish goals, expressed in deciviews (DV), that provide for reasonable progress toward achieving natural visibility conditions. Reasonable progress goals must provide for an improvement in the visibility of the 20% most impaired days for the period of the SIP and ensure no degradation of visibility for the 20% least impaired days. The baseline condition is calculated using 2000-2004 monitoring data and averaging the 20% worst days for each year. The time of year the 20% worst days occur depends on the specific area and on what events occur to impact the visibility. Naturally occurring NO_x and SO₂ amounts were calculated by EPA for each Class 1 area.

Mr. Edwards explained that a DV is a logarithmic change in the light distinction equation shown as a change of 1 DV, so it is perceivable by the eye. Higher numbers designate a worsening condition.

He reviewed the tables and values in the presentation handouts (see attached) for each Class 1 area:

Yellowstone National Park

Baseline Average (based on current emission inventories, projected emissions and controls): 11.92 DV

Natural Conditions: 7.12 DV

Needed Improvement by 2064: 4.8 DV

Uniform Rate of Progress between the Baseline and the Natural Conditions: .08 DV/yr

Needed Improvement by 2018 for the first SIP: 1.12 DV

Mary Anderson, DEQ Airshed/SIP Modeling Coordinator, added that the purpose of the initial modeling was to give the states and the regional planning organizations (RPOs) a starting point on where they were going to meet reasonable progress. It does not include assumptions about BART controls. One energy plant was included in the modeling for Idaho.

Mr. Edwards displayed the pie charts and a time series showing different pollutant concentrations for Yellowstone. The chemicals of most concern are coarse material, soil, elemental carbon, organic material, ammonium nitrate, ammonium sulfate, and rayleigh. Rayleigh is the natural scattering of light through the natural occurring background such as gases, relative humidity, etc. As elevations change, the rayleigh also changes. The pie charts are based on actual monitoring data from 2002. The Yellowstone graph shows the worst days occurring during the summer. WRAP, through Desert Research Institute, is developing back-projectory modeling that will show where

an air mass was one day or more ago to help determine where it potentially came from and what caused the pollution. It could identify such things as Asian-originated dust.

In regard to burning of forest lands, Ms. Kronberg asked if they are treated as natural occurring events. The WRAP Fire Emission Forum has struggled with this question. Man-caused fire events such as timber land burns and agricultural field burning are contributing factors to haze.

The pie charts indicate that the focus for control measures should probably focus in the areas of ammonium sulfate and ammonium nitrate.

In looking at the counties closest to Yellowstone, the greatest contributor of NO_x is transportation and the biggest contributor of SO₂ is point sources.

Craters of the Moon

Baseline Average: 14.0 DV

Natural Conditions: 7.14 DV

One participant observed that if a line was drawn through the recent "actual" values, the resulting line would meet or cross the glide path. The slope of actuals is comparable to the slope of uniform rate, which might indicate this area is meeting reasonable progress. The question was asked if DEQ has done any analysis to determine why the actual emission values have improved in recent years. Mr. Edwards said it is probably due to less fire events.

WRAP groups have discussed and looked specifically at control measures for NO_x and SO₂. At the upcoming meeting in May, WRAP will begin looking at measures for carbons, which would directly relate to fire events.

Mr. Edwards reminded the group that the SIP is intended to make reasonable progress, not set a NAAQS standard. Discussion will determine why the progress is, or is not, being met and provide supporting evidence. The federal rule dictates the baseline years are 2000-2004.

The concentration charts for the Craters of the Moon show ammonium nitrates are high in the winter months and organic material in the summer. The regional office breakdowns show SO₂ is primarily caused by point sources and NO_x is from area sources. One power plant was factored into the Jerome area.

Sawtooth Wilderness

Baseline Average: 13.02 DV

Natural Conditions: 7.16 DV

The emission inventory data indicates organic material is the highest pollutant, probably caused by fire. To clean this area, DEQ will need to look at coarse material, wind-blown

dust, and ammonia nitrate and ammonium sulfate and deal with burning. Woodstove burning ordinances might be one solution.

Selway-Bitterroot

Baseline Average: 12.9 DV

Natural Conditions: 7.3 DV

Ammonia sulfate and organic material will probably be the focus for this area. This is one of the Class 1 areas that cross state borders. Mr. Edwards reminded everyone that, while the focus is on improving the 20% worst days, DEQ should not allow degradation of the 20% best days.

Hells Canyon Wilderness

Baseline Average: 17.97 DV

Natural Conditions: 7.24 DV

This area has a steeper glide path and the baseline is a little higher than the other Class 1 areas.

Justin Hayes asked how this compares to areas outside of the Idaho area of impact. Mr. Edwards answered that the path for Hell's Canyon is closer to the numerical value found in Class 1 areas in other sections of the country. In the eastern portion of the country the DV number is at 20-25 with higher SO₂ contributions. Further south the numbers are high due to dust.

For Hell's Canyon the 20% worst days are due to ammonium nitrate, ammonium sulfate, and organic material.

Mr. Edwards said when writing the Idaho SIP emission inventory, monitoring and modeling will be used to project the future. He referred to a slide titled "Highest Attribution to Class I areas." This reflects Idaho's impact on other Class 1 areas using a model called CMAQ. WRAP analyzed emissions from point and mobile sources and determined the Class 1 area to which emissions traveled. For NO_x emissions within Idaho from the 20% worst days, emissions impacted Craters of the Moon, Hell's Canyon, Red Rock-Washington, and some Wyoming areas. One of the Section 308 requirements is to determine how Idaho's emissions affect other states' Class 1 areas. On the SO₂ side, Idaho impacts Craters of the Moon, Red Rocks, and Grand Teton. This chart shows that approximately 30% of the modeled worst days for sulfates come from Idaho sources. These numbers do not determine if sulfate is a problem in those affected areas, only that Idaho is contributing 30% of that area's sulfate total.

Mr. Edwards said that these charts reflect 2002 data and what WRAP should review is the 2018 projected data.

CONTROL MEASURES

Next Mr. Edwards discussed how to use the emission inventory to aid in reaching the reasonable progress goals. One of the mandatory requirements of Section 308 is to look at human-caused smoke management. Best Available Retrofit Technology (BART) for control at stationary sources is another of the mandatory requirements. Section 308 required states to either implement BART or an alternative trading program that would be the equivalent to BART in emission reductions.

He next discussed the three phases to BART:

BART Eligibility

Eligibility identifies the sources, determines the type of facility, and establishes the date the facility was built. BART looks at 26 different source categories and whether units were built or reconstructed between 1962-77. Once those units are identified, all the units' potential emissions are combined. If they total 250 tons/year of NO_x, SO₂ or PM₁₀, the facility is BART-eligible. If the facility qualifies for one pollutant, it qualifies for all pollutants. This involves BART-eligible units only, not the entire facility.

BART Subject

This step determines whether a specific BART-eligible source can reasonably be anticipated to contribute to impairment to visibility in a Class 1 area. Dispersion modeling is used in making this determination. Once it is determined a facility has a .5 DV impact on any Class 1 area it is considered to be the cause of or a contributor to impairment.

BART Determination

This step makes a decision on what controls should be installed at a BART-subject source. The facility determines what the emission limit would be based on the degree of reduction from a control strategy. A five-step process, similar to BACT, is followed in which the facility determines all available retrofit technologies. Any technically infeasible options are eliminated. Control effectiveness of all the remaining technologies is determined, impacts are evaluated and results documented. The impacts for each control technology are considered using factors such as cost of compliance, energy and non-air impacts of compliance, existing controls, and remaining useful life of source. Improvement to visibility is evaluated for each control and emission reduction. The ultimate goal is to find the most improvement in visibility versus the cost of compliance and emission reductions.

Because of the timeline, DEQ is moving forward with the BART-subject modeling phase using Appendix Y. Idaho is working with Washington and Oregon in developing a three-state modeling protocol. DEQ is also working with EPA, Federal Land Managers, and RPO's to ensure the protocol is correct and consistent with other entities. This protocol will be opened for public comment by Idaho stakeholders. Access to meteorological data is also a very important part of this process; Idaho is publishing an RFP to develop a three-year met data set. Oregon, Washington and Idaho are collaborating on the cost. Idaho plans to do the BART-subject modeling and make the information available

to the facilities for review. This process should aid facilities in determining which ones are BART-subject. In the BART-determination phase DEQ, in conjunction with industry, will use modeling to evaluate the improvement in visibility. The protocol will be very specific in regard to parameters, assumptions, use of data, and data input. All of these requirements are discussed in Appendix Y.

In regard to timelines, the SIP must be completed by December, 2007. DEQ must submit control strategies, including BART, for reaching progress goals to WRAP by October, 2006. WRAP will assess the visibility improvement gained from each control strategy. For the BART analysis, DEQ hopes to have the met data done by May, 2006. DEQ will do the BART-subject modeling from May-June and then work on the BART-determination phase in summer, 2006. By September, 2006, DEQ should have a good idea of BART-related emission reductions.

Mr. Edwards said that at the time DEQ submits the SIP, permits should include language that requires controls to be in place five years after EPA approves Idaho's SIP.

Mr. Edwards continued that under Section 308.e.2, the states are able to choose BART or alternative controls. An emission trading program is another option. DEQ would want to review the amount of emission reductions if BART was fully implemented. There were five states that opted into 309. Under Section 309, states look at BART reductions, over time they have declining emissions, which sets the cap. As long as those states' emissions stay under that cap, there is no trading program. If the cap is exceeded, a trading program is triggered. Idaho could do something similar to that. Because of the tight timeframes, DEQ would have to make that decision immediately. Mr. Edwards asked for feedback from the group very soon. If Idaho joins a trading program in conjunction with other states, the rules for each state would have to be identical so trading could be done consistently.

If Idaho chooses alternative control methods, trading must ensure Idaho moves toward reasonable progress goals and meets established criteria. Currently the 309 states are only doing a trading program for stationary sources with emissions over 100 tons and only for SO₂.

RULEMAKING PROCESS

Reasonable Progress Goals

Mr. Edwards presented a second PowerPoint presentation (attached). He stated the intent of this rulemaking is to establish rules to support reasonable progress goals and to meet the stakeholder process. DEQ staff plans to present similar presentations around the state to seek public participation. The first informational meeting will be in Twin Falls on February 13. He said the official rulemaking negotiations will be held in Boise at DEQ; participation can be in person or by conference call.

The first planning phase for attaining progress goals cover the years 2004 through 2018. Setting reasonable progress goals involves describing the visibility conditions expected to be achieved during this first SIP period. The uniform rate of progress will be determined and control strategies will be developed. The uniform rate of progress is determined by the slope of the glide path multiplied by the time of the planning period. When impacts occur such as numerous fire events or impacts from outside the country, DEQ will set a reasonable progress goal above the glide path and document accordingly. WRAP also is considering having optional higher and lower glide path lines to display to address exceptional events.

Mr. Edwards outlined the steps needed to develop and select the control measures:

1. Determine key pollutant species
2. Review source-by-source emission inventories and determine what source categories are contributors
3. Identify control measures: look at existing rules as well as upcoming rules to identify additional control measures

The group should look at all sources of pollution - not just point sources.

A question was asked about DEQ's authority to establish and enforce standards, given that agricultural burning is controlled by Department of Agriculture and ISDA and DEQ may not always agree. Ms. Kronberg answered that DEQ regularly interacts with ISDA, and it will also need to confer with federal staff regarding prescribed burning. It is possible agricultural and prescribed burning may require controls in order for Idaho to meet progress goals. Mr. Edwards said he hopes the Farm Bureau and ISDA will come to the table. In the past the stationary sources have taken the brunt of pollutant control, and it would be appropriate for those sources to apply pressure to uncontrolled sources to step up to the plate.

Ms. Kronberg said another key, in the case of Yellowstone, is that agriculture is not as much an issue as is prescribed forest land burning. She asked how the group determines what activities are naturally occurring. If Idaho is not reaching the reasonable progress goals because of a conflict with natural occurring events, is 7.1 DV really the natural background. Ms. Anderson said this is a nationwide question. Idaho will benefit if WRAP can develop a consistent approach for dealing with fire events. Mr. Edwards said that in the DEQ SIP, Idaho would want to take credit for the reductions that have occurred and identify where it falls above the glide path because of the federal land managers' decision to catch-up on prescribed burns. It could be assumed that as we approach 2064, we would get closer to the glide path.

The question was asked if DEQ currently has monitoring capabilities to distinguish between natural fires and human-caused fires. Mr. Edwards said WRAP uses emission inventory and meteorological modeling to identify some of the sources, such as labeling catch-up fires versus natural occurring pollution. Steve Body said WRAP will be

adopting a policy to define the various fire types and class it as natural or human-caused.

Mr. Edwards emphasized Idaho wants to use WRAP-developed recommendations and assumptions to the extent possible in order to remain consistent with other western states.

Mr. Hayes asked if all sources are treated the same or does DEQ have the ability to focus on one source-type. Mr. Edwards said this group is able to analyze all sources and address equity issues. In the case of stationary sources, Ms. McIntyre asked if DEQ were to look on a source-by-source basis and on a unit basis, would it find there are sources whose emission units that already have BACT, MACT, NSPS and would not be required to do further control. She offered that existing rules have addressed contribution from stationary sources while the emissions from the area sources have not had time to catch up. Ms. Anderson added that the Regional Haze rule requires BART analysis, or an equivalent, on stationary sources but beyond that the state can decide on the best control methods. Mr. Edwards said DEQ has been working with several stationary sources to identify which emission units are BART-eligible. Even though some units may be BART-eligible, the facility may have already added all the controls or not be to subject because they do not impact a Class 1 area. However, DEQ and the facility must go through the BART process and prepare appropriate documentation.

Rulemaking For Regional Haze

Mr. Edwards summarized the areas on which the group should focus to develop the regional haze rule:

- Seek authority to establish reasonable progress goals
- Identify suite of control measures to meet uniform rate of progress
- Develop rules for BART or an alternative
- Decide on cap-trade program for SO₂ within the next thirty days; it is a declining cap so new facilities moving into the area must contact existing sources to obtain emission reduction credits; DEQ will provide the group with a copy of a sample trading rule
- Update PSD to meet RPGs
- Develop a process for handling minor sources in or near Class 1 areas

Mr. Edwards proposed the following committee structure for this rulemaking:

- Steering Committee
- BART Subcommittee - consider BART or any alternatives
- PSD Subcommittee - set RPGs including update of New Source Review/PSD to support RPG and minor sources in Class 1 areas
- Additional Control Measures Subcommittee - identify suite of additional measures needed to meet RPG

Montana Draft Rule And Use Of Appendix Y

Mr. Edwards referred the group to the Montana's draft rule. This rule references sections of the federal Regional Haze rule beginning with the definitions from Section 301. On page 4 of the Montana rule, New Rule II, Incorporation by Reference, Montana incorporates Appendix Y, Section IV, as a foundation. On page 4, New Rule III, BART Requirements, Montana identifies that if the unit at the facility emits less than 40 tons/yr of SO₂ or NO_x, the facility is not BART-eligible. On page 5, New Rule III.4, Montana added .5 deciview as its maximum standard.

DEQ staff feels Appendix Y provides a good foundation and Mr. Edwards asked for feedback. Ms. Anderson said Appendix Y outlines

- How to determine what cause of impairment is
- What contribution to impairment is
- Provides information on modeling
- Discusses specific information on conducting modeling and what input and emissions to use
- Explains how a BART review relates to MACT standards
- Discusses EPA's interpretation of the rule

It appears many states are already using Appendix Y either in rule or as guidance. For consistency sake, the undecided states are leaning heavily toward using Appendix Y. Ms. McIntyre stated that EPA said Appendix Y is mandatory for utility units over 750 MW but is not mandatory for all other source categories. States do have discretion to use a different path.

Mr. Edwards asked for discussion on the pros and cons of using Appendix Y as the framework and identify within Appendix Y where program flexibility is provided. Ms. Anderson said Appendix Y specifically says eligibility determination is done at the emission unit level. Units would be BART-eligible if a facility is one of the 26 categories, was built in the 1950's and had new or reconstructed units during that time period.

Mr. Edwards commented that the state of Washington did not have adequate resources to develop a Regional Haze SIP so they have handed it off to EPA to do a federal SIP. EPA is using Appendix Y for Washington as are all states in the WRAP region.

Ms. Kronberg said Appendix Y goes through what is BART-eligible. The Montana rule adopted Section 2.A which looks at BART-eligible sources on a source-by-source basis and talks about the sources that were built in the 1962-77 timeframe. It also addresses impact.

Mr. Edwards reminded the group that three of Idaho's Class 1 areas impact other states - Montana, Wyoming, and Oregon - requiring Idaho to coordinate efforts with each of those states. If Idaho uses a different process it will be confusing.

One group member said she is hesitant to move forward without considering the cap-trade program. One concern is new sources. Mr. Edwards said the trading program would provide some protection to current sources. If a declining cap was established, new facilities would help Idaho work toward the reasonable progress goals on a point source basis. New facilities would look to existing facilities to purchase allowances, which will protect the glide path. The question was asked, if DEQ goes with BART, is it unfair to existing sources if a new source comes in and they are less regulated. Mr. Edwards said one option to address a new source that is reasonably contributing to visibility impairment at the .5 DV level would be to have rules for obtaining emission reductions.

Ms. Kronberg said the whole goal is to reach reasonable progress goals. Mr. Edwards said one issue to consider in adopting a cap-trade program, is to decide if it is geographically feasible for a source constructing in New Mexico to buy emission credits from Idaho. Would it make more sense for Idaho to work with its surrounding states? One of the requirements in the trading program is to not create hot-spots for Class 1 area. If all the reductions are down south and all the increases are in Idaho, Idaho has a greater chance of creating hot-spots. Whether Idaho goes BART or the alternative, Idaho must go through the BART process to quantify BART reductions. Participants said they want to have time to review the cap-trade rules.

Ms. Anderson said DEQ will continue to proceed with the BART process according to Appendix Y in order to meet the timelines. BART determinations are not able to be made by just using the Regional Haze rule. Ms. Anderson added that the group should make a decision on Appendix Y as soon as possible. Bob Wilkinson countered that the Rule does clearly define BART-eligibility and that is why P4 has strong feelings that Appendix Y, Section 2, does not properly interpret the requirements in 40 CFR 308. Ms. Kronberg said DEQ thinks the interpretation is valid. Mr. Wilkinson said if a source is constructed in the 1962-77 timeframe, it is BART-eligible - the Rule defines what it means by source. It does not mean an emission unit, it means a stationary source and that looks at all the emission-emitting activities on a contiguous property that are under the two-digit SIC code.

Ms. Kronberg asked, in regard to Montana's incorporation of Section 2.A, does P4 think Montana is including BART-eligible sources that would not otherwise be required by federal law. Mr. Wilkinson responded, yes.

Ms. Anderson added that the guidance gives presumptive limits in pounds per unit and does not go through the source-by-source process for 750 MW energy facilities. Non-energy units must go through the entire process. Ms. Kronberg says she knows it is an issue for P4 but probably not for more than one or two other facilities. Ms. Kronberg asked if industry plans to challenge Section 2.A as states would apply it. Mr. Wilkinson responded he is not certain, however, he thinks the time has passed for a petition for review.

Ms. Anderson added that consistency among the neighboring states is necessary. Appendix Y gives the best description of what should be done and the best path forward. Mr. Edwards reiterated that in order for DEQ to submit the SIP on time, the Appendix Y question must be answered as soon as possible. If DEQ cannot get to the crux of this, it will be impossible for the state of Idaho to develop a SIP, identify the controls measures and submit on time. If DEQ misses the timeline, DEQ will revert to EPA for development. Ms. Kronberg said she thinks we need to find out what the universe of Section 2.A sources is before making that kind of decision.

Ms. Anderson said DEQ does not have all the detailed information and with the timeline it is under, DEQ needs a decision within thirty days. She said if Appendix Y is used, seven sources would be impacted. Two or three may fall out if Appendix Y is not adopted. However, those two or three are near Class 1 areas that affect other states. If an alternative is used, BART would be required in order to know what the alternative is. Ms. McIntyre asked if the first step is to determine what major stationary sources would be included. Ms. Anderson said that goes hand-in-hand with the facility review work currently being done. Four have been identified as BART sources due to timeframe, source category, and potential to emit:

- Three TESCO facilities (one boiler each)
- Agrium (sulfuric acid plant)

DEQ is working with Potlatch Pulp/Paper, P4, and Simplot-Don Plant to determine eligibility. Ash Grove has been excluded because it was built prior to 1962 and no units or reconstruction is involved.

Ms. McIntyre questioned if the issue of Appendix Y, Section 2, raised by P4 has the same implications for the remainder of the facilities on the BART list. Ms. Kronberg added that P4 is a unique situation because it installed control equipment during the timeframe that is not subject. However, they have a kiln that does not constitute reconstruction under NSPS because it was not existing equipment that was reconstructed. A decision must be made if the reconstruction costs are fifty percent of the unit. The kiln is a brand new source built during 1962-77, so the regulation talks about the facility being built during the time period and then carves out the reconstruction idea for the 1962-77 timeframe. What the regulation is silent on are the new units or sources that were built in the 1962-77 timeframe when the kiln was built. Then what do you do with the units built in that timeframe pre-PSD but not before the 1962-77 timeframe where they become obsolete and would be replaced. If DEQ does not adopt Appendix Y, Section 2.A, that would not be BART-eligible.

Mr. Wilkinson said the regulations do define reconstruction and Appendix Y discusses if the fixed capital cost of the new component, in P4's case the new kiln, exceeds fifty percent of the fixed capital cost of a comparable, entirely new source and source for purposes of this rule is defined, and in P4's case would be the entire plant. Ms. Kronberg responded, when you look at the regulation for the definition of reconstruction, you look at NSPS and NSPS on an emission unit basis.

Mr. Hayes questioned if the group adopts Appendix Y and these seven facilities are included for BART is it accurate to assume Idaho would still not reach reasonable progress goals. Does DEQ want the framework in Appendix Y to help move forward for the sake of making progress in a timely manner? Ms. Anderson responded, yes.

Mr. Edwards asked everyone to review Appendix Y, thinking about pros and cons for discussion at the next meeting.

Rulemaking Committee Structure

Mr. Edwards again stated this rulemaking group will be comprised of a Steering Committee and three Subcommittees that will meet at least bi-weekly. DEQ staff will serve as Subcommittee Team Leaders as follows:

- BART Subcommittee - Mike Simon
- PSD - Reasonable Progress Goals Subcommittee - Mary Anderson
- Additional Controls Measures Subcommittee - Mike Edwards

He would like the group to discuss and make decisions on the following issues at the next few meetings:

- Whether to adopt Appendix Y
- What parts to include
- Where flexibility can be gained and how to implement
- How can Appendix Y content be placed in the rule
- Do we update the NSR language within the existing rules or do we add a new section

Recommendations from the subcommittees will be presented to the Steering Committee for discussion and final approval. Regarding the schedule for the rulemaking, Phyllis Heitman said the negotiations should be completed by approximately July 15, 2006. By doing that the public comment period would be held in early fall with submission of the rule to the Board in November, which is the last Board meeting before the 2007 Legislative Session. Getting Legislative approval in 2007 will allow an approved rule to be in place for the SIP submission in December, 2007.

Mr. Hayes offered that having participated in a lot of rulemakings, this group cannot make decisions on that timeframe. Mr. Edwards stated that if DEQ does not take the rule to the 2007 Legislature, DEQ would not have a rule to put into the SIP to support its regional haze plan. Ms. McIntyre stated she recalls that in the past EPA has accepted rules that have been approved by the Board but that have not reached the Legislative approval stage. Ms. Kronberg said DEQ has sent temporary rules to EPA, however, she said DEQ may not want to do that in this case. However, during the discussions today she wonders if statutory changes requiring Legislative approval are needed.

Ms. Somers asked if there is a downside to having EPA prepare the SIP. Mr. Edwards said the state would like the ability to work with the facilities and other stakeholders rather than relying on EPA. Ms. McIntyre reminded DEQ it has a limited budget and should make the best use of its resources. EPA would be one of those available resources. Ms. Anderson said DEQ management decided preparation of the SIP and the regional haze rule by air quality staff if a work priority.

Schedule For Future Meetings

The next Steering Committee rulemaking meeting was scheduled for February 28, 2006, 9:00 a.m. – noon at the DEQ state office in Boise. *(Editor's Note: Subsequently the meeting time was changed to February 28, 2006, 9:00 a.m. - 3:00 p.m.)*

Agenda will include:

- Appendix Y
- Emission Cap-Trading Rule
- Subcommittee Assignments

DEQ will circulate the sample cap-trade rule. Ms. Kronberg asked sources that have received BART letters from DEQ and think they might be affected by the Section 2.A. P4 discussion, advise DEQ as soon as possible. She also asked the participants to review the draft Montana Rule.

The meeting adjourned at 12:30 p.m.